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August 14, 2018

**VIA CM/ECF**

The Honorable Tonianne J. Bongiovanni, U.S.M.J.  
Clarkson S. Fisher Federal Building & U.S. Courthouse  
402 East State Street  
Trenton, New Jersey 08608

***Re: NL Industries, Inc. v. Township of Old Bridge, et al.***  
***Civil Action No.: 3:13-cv-03493-MAS-TJB***

Dear Judge Bongiovanni:

We represent Plaintiff NL Industries, Inc. ("NL") in the above-referenced matter. We write on behalf of NL and Defendants United States Army Corps of Engineers ("USACE"), United States General Services Administration ("GSA"), and Old Bridge Township to provide a minor clarification regarding the Court's enclosed Order of Designation For Mediation, dated August 6, 2018 (Doc. No. 506) (the "Order"). The Order could be read to direct all parties to participate in mediation. At this point, NL and Defendants USACE, GSA, Old Bridge Township, and possibly Middlesex County, are the only parties to this case that are participating in the mediation that is about to begin with Mediator Michael Last. The mediation will also include counsel for the United States Environmental Protection Agency and likely the State of New Jersey.

Several months ago when the proposal for mediation was being discussed, it was determined that the mediation process should start with only NL and the Government PRPs participating. It is much more efficient to conduct the mediation with a limited group of participants and we believe that a mediation involving NL and the Government PRPs offers the best chance to make meaningful progress toward a resolution of this matter. If the parties conducting the mediation are able to reach a settlement agreement, discussions will then move on to the non-participating defendants. We are not aware of any non-participating defendant that has expressed an interest in participating in the mediation that is about to commence. If Your

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Honor has any questions or concerns, I would be happy to address them on a telephone conference at Your Honor's convenience.

Respectfully,

s/ Christopher R. Gibson  
CHRISTOPHER R. GIBSON

Enclosure  
cc: All Counsel of Record (via CM/ECF)  
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UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

NL INDUSTRIES, INC.,

Plaintiff,

v.

OLD BRIDGE TOWNSHIP et al,

Defendants.

Civil Action No. 13-3493 (MAS)

ORDER OF DESIGNATION  
FOR MEDIATION

The Court having discussed this matter with the parties and it appearing that mediation of this civil action would conserve the resources and be in the best interests of the Court and of the parties; and good cause appearing;

IT IS on this 6<sup>th</sup> day of August, 2018,

ORDERED THAT:

1. This civil action be, and hereby is, referred to mediation.
2. Counsel and the parties shall participate in mediation and shall cooperate with the mediator, Michael P. Last, Esq., whom they have selected. Mr. Last can be reached at 160 Federal Street, Boston, MA 02110, Phone: 617-951-1192.
3. Counsel and the parties (including individuals with settlement authority) shall attend mediation sessions as requested by the mediator.
4. The mediator may meet with counsel and parties jointly or *ex parte*. All information presented to the mediator shall be deemed confidential and shall be disclosed by the mediator only upon consent of counsel, except as necessary to advise the Court of an apparent failure to participate. The mediator shall not be subject to subpoena by any party. No statements made or documents prepared for mediation sessions shall be disclosed in any subsequent proceeding or be constructed as an admission against interests.
5. All proceedings in this matter, except for discovery as agreed to by the mediator and counsel and discovery needed to facilitate the mediation, are stayed until **November 19, 2018**.

6. The parties shall provide the Court with a written status update concerning the mediation of this matter no later than **November 21, 2018**.

s/Tonianne J. Bongiovanni

**HONORABLE TONIANNE J. BONGIOVANNI**  
**UNITED STATES MAGISTRATE JUDGE**